

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Willie D. JOHNSON,

Petitioner,

v.

Robert L. AYERS Jr., Warden of San Quentin  
State Prison,

Respondent.

Case Number C 98 4043 SI JL

DEATH-PENALTY CASE

ORDER GRANTING  
RESPONDENT'S MOTION FOR  
LEAVE TO CONDUCT DISCOVERY

[Docket Nos. 181-82]

Petitioner Willie D. Johnson is an inmate on California's death row at San Quentin State Prison. In Claim I of his Petition, Petitioner asserts that he is innocent of capital murder. Pursuant to Rule 6 of the Rules Governing Section 2254 Cases in the United States District Courts, Respondent seeks leave to depose Petitioner on this claim. Petitioner opposes Respondent's motion. The Court heard argument on the motion on March 2, 2007.

Petitioner's counsel argued vigorously against Respondent's motion, both in briefs and at oral argument. The Court appreciates the objections made and concerns expressed by Petitioner's counsel. However, it is normal, rather than unusual, for the parties to have the opportunity to talk to each other and to witnesses in advance of in-court testimony. This is particularly true where the issue is of great importance, such as whether an inmate is actually innocent of the crime for which

1 he has been sentenced to death. Accordingly, the Court believes that Respondent is entitled to  
2 depose Petitioner in the same manner that either party is entitled to depose any other witness who  
3 is scheduled to give testimony at an evidentiary hearing.

4 The Court is mindful of the impact that prior developments, which are a matter of record,  
5 had on Petitioner's relationship with his attorneys. Nonetheless, the Court finds that the law  
6 supports Respondent's position.

7 Accordingly, the Court finds and concludes that Respondent is entitled to conduct a  
8 deposition of Petitioner on his claim of innocence. Good cause therefor appearing, Respondent's  
9 motion for leave to conduct discovery is granted.

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11 **IT IS SO ORDERED.**

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13 DATED: March 7, 2007



14 SUSAN ILLSTON  
15 United States District Judge  
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